

#### § 400.49

(c) *Procedure.* (1) A request for authority to enter “zone-restricted” merchandise into U.S. customs territory shall be made to the Executive Secretary in letter form by the zone grantee or by the operator responsible for the merchandise (with copy to the grantee), with supporting information and documentation.

(2) The Executive Secretary shall investigate the request and prepare a report for the Board.

(3) The Executive Secretary may act for the Board under this section with respect to requests that involve merchandise valued at 500,000 dollars or less and that are accompanied by a letter of concurrence from CBP.

#### § 400.49 Monitoring and reviews of zone operations and activity.

(a) *In general.* Ongoing zone operation(s) and activity may be reviewed by the Board or the Executive Secretary at any time to determine whether they are in the public interest and in compliance and conformity with the Act and regulations, as well as authority approved by the Board. Reviews involving production activity may also be conducted to determine whether there are changed circumstances that raise questions as to whether the activity is detrimental to the public interest, taking into account the factors enumerated in § 400.27. The Board may prescribe special monitoring requirements in its decisions when appropriate.

(b) *Conduct of reviews.* Reviews may be initiated by the Board, the Commerce Department’s Assistant Secretary for Enforcement and Compliance, or the Executive Secretary; or, they may be undertaken in response to requests from parties directly affected by the activity in question showing good cause based on the provision of information that is probative and substantial in addressing the matter in issue. After initiation of a review, any affected party shall provide in a timely manner any information requested as part of the conduct of the review. If a party fails to timely provide information requested as part of such a review, a presumption unfavorable to that party may be made.

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(c) *Prohibition or restriction.* Upon review, if a finding is made that zone activity is no longer in the public interest (taking into account the factors enumerated in § 400.27 where production activity is involved), the Board or the Commerce Department’s Assistant Secretary for Enforcement and Compliance may prohibit or restrict the activity in question. Such prohibitions or restrictions may be put in place after a preliminary review (e.g., prior to potential steps such as a public comment period) if circumstances warrant such action until further review can be completed. The procedures of § 400.34(a)(5)(iv)(A) shall be followed to notify the grantee of the affected zone and allow for a response prior to the final imposition of a prohibition or restriction. The appropriateness of a delayed effective date shall be considered.

### Subpart F—Records, Reports, Notice, Hearings and Information

#### § 400.51 Records and reports.

(a) *Records and forms.* Zone records and forms shall be prepared and maintained in accordance with the requirements of CBP and the Board, consistent with documents issued by the Board specific to the zone in question, and the zone grantee shall retain copies of applications/requests it submits to the Board in electronic or paper format.

(b) *Maps and drawings.* Zone grantees or operators, and CBP, shall keep current layout drawings of approved sites as described in § 400.21(d)(5), showing activated portions, and a file showing required activation approvals. The zone grantee shall furnish necessary maps to CBP.

(c) *Annual reports.* (1) Each zone grantee shall submit a complete and accurate annual report to the Board within 90 days after the end of the reporting period. Each zone operator shall submit a complete and accurate annual report to the zone grantee in a timeframe that will enable the grantee’s timely submission of a complete and accurate annual report to the Board. A zone grantee may request an extension of the deadline for its report, as warranted. The Executive Secretary

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may authorize such extensions, with decisions on such authorizations taking into account both the circumstances presented and the importance of the Board submitting its annual report to Congress in a timely manner. Annual reports must be submitted in accordance with any instructions, guidelines, forms and related documents specifying place, manner and format(s) prescribed by the Executive Secretary. In the event that a grantee has not received all necessary annual report information from an operator in a timely manner, the grantee may submit its annual report on time and note the absence of the missing information.

(2) The Board shall submit an annual report to Congress.

### § 400.52 Notices and hearings.

(a) *In general.* The Executive Secretary shall publish notice in the FEDERAL REGISTER inviting public comment on applications and notifications for Board action (see, §§ 400.32 and 400.37(b)), and with regard to other reviews or matters considered under this part when public comment is necessary. An applicant under §§ 400.21, 400.24(b) and 400.25 shall give appropriate notice of its proposal in a local, general-circulation newspaper at least 15 days prior to the close of the public comment period for the proposal in question. The Board, the Secretary of Commerce, the Commerce Department's Assistant Secretary for Enforcement and Compliance, or the Executive Secretary, as appropriate, may schedule and/or hold hearings during any proceedings or reviews conducted under this part whenever necessary or appropriate.

(b) *Requests for hearings.* (1) A party who may be materially affected by the zone activity in question and who shows good cause may request a hearing during a proceeding or review.

(2) The request must be made within 30 days of the beginning of the period for public comment (see § 400.32) and must be accompanied by information establishing the need for the hearing and the basis for the requesting party's interest in the matter.

(3) A determination as to the need for the hearing shall be made by the Com-

merce Department's Assistant Secretary for Enforcement and Compliance within 15 days after the receipt of such a request.

(c) *Procedure for public hearings.* The Board shall publish notice in the FEDERAL REGISTER of the date, time and location of a public hearing. All participants shall have the opportunity to make a presentation. Applicants and their witnesses shall ordinarily appear first. The presiding officer may adopt time limits for individual presentations.

### § 400.53 Official records; public access.

(a) *Content.* The Executive Secretary shall maintain at the location stated in § 400.54(e) an official record of each proceeding within the Board's jurisdiction. The Executive Secretary shall include in the official record all timely evidence, factual information, and written argument, and other material developed by, presented to, or obtained by the Board in connection with the proceeding. While there is no requirement that a *verbatim* record shall be kept of public hearings, the proceedings of such hearings shall ordinarily be recorded and transcribed when significant opposition to a proposal is involved.

(b) *Opening and closing of official record.* The official record opens on the date the Executive Secretary docketed an application or receives a request or notification that satisfies the applicable requirements of this part and closes on the date of the final determination in the proceeding or review, as applicable.

(c) *Protection of the official record.* Unless otherwise ordered in a particular case by the Executive Secretary, the official record shall not be removed from the Department of Commerce. A certified copy of the record shall be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of business proprietary or privileged information.

### § 400.54 Information.

(a) *Request for information.* The Executive Secretary, on behalf of the Board,